

SBA 7(a) GUARANTY LOAN PRE-APPLICATION CHECKLIST

This checklist is designed to assist lenders in matching prospective applicants with the Small Business Administration's 7(a) guaranty loan program. It is a guide only, and not a final authority. Questions raised during the process should be discussed with either your institution's SBA contact or SBA's Michigan District Finance Division staff at (313) 226-6075.

ELIGIBILITY OF THE BUSINESS

1. Does the applicant business have any affiliates?

☐ Yes

☐ No

Note: According to SBA's definition, businesses are affiliates of each other when, either directly or indirectly:

- one concern controls or has the power to control the other, **OR**
- a third party controls or has the power to control both, **OR**
- an identity of interest exists among parties such that affiliation is implied.

2. Is the applicant business (including its affiliates) within SBA's size standards?

Generally, SBA's size standards (maximum) are:

Manufacturing - 500 employees; **Wholesaling** - 100 employees; **Retailing and Services** - \$6.5 million in annual receipts; **Construction** - \$13 million in annual receipts. Standards may be higher in certain NAICS or geographic areas.

☐ Yes

☐ No

If no, the business is ineligible. SBA size standards may be found at <http://www.sba.gov/size/index.html>.

3. Is the applicant engaged in one or more of the following businesses?

Non-profit businesses (for-profit subsidiaries are eligible); **Financial businesses** primarily engaged in the business of lending, such as banks, finance companies and factors (pawn shops, although engaged in lending, may qualify in some circumstances); **Passive businesses** owned by developers and landlords that do not actively use or occupy the assets acquired or improved with the loan proceeds (except Eligible Passive Companies*); **Life insurance companies**; **Businesses located in a foreign country** (businesses in the U.S. owned by non-U.S. citizens may qualify); **Pyramid sale distribution plans**; Businesses deriving more than one-third of gross annual revenue from **legal gambling activities**; **Private clubs** and businesses which limit the number of memberships for reasons other than capacity; **Government-owned entities** (except for businesses owned or controlled by a Native American tribe); Businesses principally engaged in teaching, instructing, counseling or indoctrinating **religion or religious beliefs**, whether in a religious or secular setting; **Consumer and marketing cooperatives** (producer cooperatives are eligible); **Loan packagers** earning more than one third of their gross annual revenue from packaging SBA loans; Businesses with **an Associate who is incarcerated, on probation, on parole or has been indicted for a felony or a crime of moral turpitude**; Businesses in which the **lender (or Certified Development Company, if a 504 loan) or any of its Associates owns an equity interest**; Businesses which (1) **present live performances of a prurient sexual nature**; or (2) derive directly or indirectly more than *de minimis* gross revenue through the sale of products or services, or the **presentation or any depictions or displays of a prurient sexual nature**; Businesses primarily engaged in **political or lobbying activities**; **Speculative businesses** (such as oil wildcatting)?

* An Eligible Passive Company must use loan proceeds to acquire or lease, and/or improve real or personal property (including eligible refinancing) that it leases to an Operating Company for the conduct of the Operating Company's business. The following conditions apply: (1) The Operating Company must be an eligible small business and the use of proceeds must be an eligible use if the Operating Company were obtaining the financing directly; (2) The Eligible Passive Company (with the exception of a trust) and the Operating Company each must be small under the appropriate size standards; (3) The lease between the Eligible Passive Company and the Operating Company must be in writing, subordinate to the SBA financing and must have a remaining term equal to the term of the loan. Assignments of lessee and lessor's interests are required; (4) The Operating Company and the Eligible Passive Company must be co-borrowers; and (5) Each holder of an ownership interest constituting at least 20% of the Eligible Passive Company and the Operating Company must guarantee the loan.

☐ Yes

☐ No

If yes, the applicant is ineligible.

ELIGIBILITY OF THE LOAN PROCEEDS

1. Are other sources of funds (conventional bank financing or personal resources of principals owning 20% or more of the business) available in lieu of part or all of the requested SBA loan?

☐ Yes

☐ No

If yes, the loan may be ineligible. Principals who possess liquid personal assets of more than \$100,000 may be required to utilize the excess. See item # 25 on 7(a) GUARANTY LOAN APPLICATION CHECKLIST FOR LENDERS.

2. Will loan proceeds facilitate an ownership change in the business?

☐ Yes

☐ No

If yes, the entire ownership interest of the seller(s) must be purchased (seller(s) cannot retain any ownership interest) and the ownership change must result in the sound development or preservation of the business.

3. Will loan proceeds be used to purchase, improve or refinance an asset for rent/lease to others?

☐ Yes

☐ No

If yes, the Eligible Passive Company (owner of the asset) **and** the Operating Company (tenant) must be obligors, they must each be small under the appropriate size standards and the Operating Company must be an eligible small business.

4. Will loan proceeds be used to pay: owners, partners, shareholders, creditors who are in a position to sustain a loss, delinquent withholding taxes or sales tax?

☐ Yes

☐ No

If yes, the loan is ineligible.

5. Will loan proceeds be used to relocate the business?

☐ Yes

☐ No

If yes, the loan may be ineligible.

6. Will loan proceeds be used to purchase, improve or refinance an existing building?

☐ Yes

☐ No

If yes, the applicant business must utilize more than 50% of the rentable property (interior useable square footage plus interior common areas).

7. Will loan proceeds be used to construct a new building?

☐ Yes

☐ No

If yes, the applicant business (1) may permanently lease long term to others up to 20% of the rentable property, (2) must initially utilize at least 60% of the rentable property and (3) must show they will need some of the remaining rentable property not leased long term within three years and all of the rentable property not leased long term within ten years.

8. Will loan proceeds be used to refinance debt?

☐ Yes

☐ No

If yes, the refinance must clearly benefit the applicant (P&I on refinanced debt that does not have a balloon payment must drop by at least 20% under the new loan terms) and it may not pay off either a creditor who is in a position to sustain a loss or a loan that is already on reasonable terms.

9. Will loan proceeds be used to refinance debt due to your financial institution (or its affiliate)?

☐ Yes

☐ No

If yes, the application must include both a transcript (payment history) of the loan **and** a statement by the submitting loan officer that the loan(s) to be refinanced has been current (never more than **29** days late) for at least the past 36 months.

OTHER CONSIDERATIONS

1. Are any of the principals of the applicant incarcerated, on probation, on parole or under indictment?

☐ Yes

☐ No

If yes, the application cannot be accepted.

2. Have any of the principals of the applicant ever been charged with, arrested for or convicted of any criminal offense other than a minor motor vehicle violation?

☐ Yes

☐ No

If yes, SBA Form 912 must be accompanied by a **complete** explanation. Processing may be delayed or suspended, and a fingerprint card (Form 258) may also be required depending upon the nature of the offense(s).

3. Is any holder of 50% or more of the ownership interest in the applicant more than 60 days delinquent on any obligation to pay child support arising under (1) administrative order; (2) court order; (3) repayment agreement between the holder and a custodial parent; or (4) repayment agreement between the holder and a State agency providing child support enforcement services?

☐ Yes

☐ No

If yes, the loan may not be processed or, if discovered after approval, it may not be closed.

4. Has the applicant, or any of its principals or their former businesses previously defaulted on a Federal loan or Federally assisted financing, resulting in the Federal Government or any of its agencies or departments sustaining a loss in any of its programs?

☐ Yes

☐ No

If yes, the applicant is likely to be ineligible.

5. Are all principals of the applicant U.S. citizens?

☐ Yes

☐ No

If no, resident alien status must be verified by the U.S. Immigration and Naturalization Service, using their form G-845.

6. Does the participating lender, or any of its employees, officers, directors or substantial shareholders (more than 10%), have a financial interest in the applicant or any assets to be purchased by the applicant?

☐ Yes

☐ No

If yes, the participating lender may be ineligible in this particular transaction.

7. Is the applicant business a franchise?

☐ Yes

☐ No

If yes, the applicant and the franchisor may be required to execute an agreement containing various limiting covenants. Also, the franchise agreement must accompany the application unless the franchisor is registered on the franchise registry (<http://www.franchiseregistry.com/>). If registered, a Certificate of No Change must be included in the application.

8. Is the guaranteed portion of requested and outstanding SBA guaranteed loans, including loans to affiliates, within SBA's maximum of \$1,500,000?

☐ Yes

☐ No

If no, the loan is ineligible.

9. Does the loan amount exceed \$2,000,000?

☐ Yes

☐ No

If yes, the loan is ineligible.

10. Is the loan amount \$150,000 or less (including other SBA loans, either approved within 90 days or currently in process)?

☐ Yes

☐ No

If yes, SBA's maximum guaranty is 85%.

11. Is the loan amount (including other SBA loans, either approved within 90 days or currently in process) more than \$150,000?

☐ Yes

☐ No

If yes, SBA's maximum guaranty is 75%.